

UNITED DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SAMMIE STEVENS

Civil Action No.: 3:20-CV-3411-K

Plaintiff

V.

OLLIE'S BARGAIN OUTLET, INC.

Div. Juris 28 U.S.C. § 1332

Defendant

FIRST SUPPLEMENTAL AND AMENDED COMPLAINT FOR DAMAGES

COMES NOW, Sammie Stevens, Plaintiff who files this First Supplemental and Amended Complaint for Damages against,

Ollie's Bargain Outlet, Inc. and Defendant and shows this Court the following:

Statement of Subject Matter Jurisdiction

Plaintiff, Sammie Stevens is a person of full age and a citizen of the City of Dallas, State of Texas.

Plaintiff alleges acts of negligence against:

First Named Defendant, Ollie's Bargain Outlet, Inc. foreign corporation founded and incorporated in the State of Pennsylvania, USA and principle place of Business in Harrisburg, Pennsylvania, making Defendant a citizen of Pennsylvania; furthermore defendant is authorized to do and doing business in Dallas County, State of Texas; and who is at all times responsible for the damages complained of herein; and thus pursuant to 28 U.S.C., 1332, there exist diversity of citizenship of the parties.

Federal Jurisdiction and Venue

Ollie's Bargain Outlet, Inc. made defendant herein and assumed all the liabilities,

debts, and obligations of and owns and had care custody and control of the Store located at municipal address at 2100 N Town East Blvd, Mesquite, Dallas County, State of Texas the location of the incident made basis of this lawsuit.

Additionally, Plaintiff, an 89 year old woman was seriously injured as a result of incident made basis of this lawsuit, as result she is no longer able to lift her arm and is in severe and excruciating pain which she will endure and will cause her to need on going medical treatment for the duration of her life which will exceed \$100,000.00 in special and general damages in the late time span; and thus amount in controversy in this matter exceeds the jurisdictional limits of this Honorable Court of \$75,000.00.

This Honorable Court has subject matter jurisdiction over this claim which is within the territorial bounds of this Honorable Court.

Thus venue is Proper in the United States District Court for the Northern District of Texas, Dallas Division.

COUNT 1

Plaintiff alleges premises liability against Defendant, Ollie's Bargain Outlet, Inc. is a made, Defendant is liable unto plaintiff for a reasonable sum in the premises, together with legal interest thereon from date of judicial demand until paid, and for all costs of these proceedings for the following reasons to wit.

1.

On or about April 19, 2020 at 4:30 p.m. Plaintiff, Sammie Stevens was a lawful invitee and patron of Ollie's Bargain Outlet, Inc. store located at 2100 N Town East Blvd, Mesquite, Dallas County, State of Texas.

2.

Plaintiff, Sammie Stevens who is 89 years old at the time, was walking around on the

coffee aisle where there was coffee products stacked 6 feet high from the floor when suddenly unexpectedly without warning a pallet gave way causing plaintiff to trip and fall face first striking the ground hard and causing serious to her person.

3.

Prior to Plaintiff, Sammie Stevens's trip and fall, employees of Defendant, Ollie's Bargain Outlet, Inc., and acting within the course and scope of employment purposely created the maze of Coffee pallets 6 feet high obstructing the pathway in the aisle walkway causing an unreasonably dangerous condition to lawful invitees, patrons and customers like plaintiff.

4.

Defendant, Ollie's Bargain Outlet, Inc. owed a duty of reasonable care to its patrons and invitees to the aisle way free and clear at the Store located 2100 N Town East Blvd, Mesquite, Dallas County, State of Texas and was aware of plaintiff's presence as a patron and a lawful invitee.

5.

Defendant owed Plaintiff the duty of reasonable care. Defendant knew or should have known that maze of pallets created a dangerous condition for customers, invitees and patrons.

6.

Defendant, Ollie's Bargain Outlet, Inc. duty of reasonable care was breached when they failed to foresee the danger posed to customers, invitees and patrons in failing to arrange the pallets in a safe reasonable manner.

7.

The subject 6 feet high pallets were known by defendant's employees and thus

constituting failure on the part of Defendant, Ollie's Bargain Outlet, Inc. to act with ordinary care under the theory of respondeat superior thereby making said defendant vicariously responsible.

8.

The aforementioned Defendant, Ollie's Bargain Outlet, Inc. is liable for its own negligence for things in its care, custody and control; and for the negligent acts of its employees agents and representatives;

9.

Defendant, Ollie's Bargain Outlet, Inc. is liable unto Petitioner for its own negligence, the negligence of its employees, which includes but is not limited to the following:

- a. Failure to take the necessary precautions to avoid the incident made the basis of this litigation even after they knew or should have known that the unreasonable placement of the pallets obstructing the aisle cause a hazardous conditions;
- b. Failure to make a timely installation of warning signs or postings informing invitees and patrons that a hazardous condition existed, and the obstacle therein were not open and obvious to patrons, invites and guest as they entered the aisle when gazing from a normal look out distance;
- c. Failure to take the necessary precautions to avoid the incident made the basis of this litigation even after they knew or should have known;
- d. Failure to make a timely installation of warning signs or postings informing invitees that a hazardous condition existed;
- e. Failure to exercise reasonable vigilance;
- f. Failure to properly train and educate employees;
- g. Negligent hiring of incompetent employees;

- h. Failure to maintain things in their care, custody, and control;
- i. Any and all other acts of negligence which might be shown at the time of this trial.

11.

As a result of the aforementioned negligence, Plaintiff, Sammie Stevens slipped and fell as has seriously injured body and will suffer permeant impairment and experience ongoing and enduring pain that will last a lifetime. These injuries were proximately caused by negligence of the Defendant in not exercising ordinary care toward a foreseeably dangerous condition resulting in extensive medical treatment and damages.

12.

Plaintiff, Sammie Stevens is entitled to an amount in damages reasonably calculated to compensate her for injuries he sustained, including but not limited to;

- a. Past, Present and future loss of household services in the past and future.
- b. Past, present and future mental pain, suffering and anguish;
- c. Past, present and future physical pain and suffering and loss of function;
- d. Past, present and future medical expenses;
- e. Loss of enjoyment of life; and
- g. Any and all other damages cognizable by the Constitution of the State of Texas and the United States Constitution.

13.

Petitioner avers amicable demand to no avail.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Sammie Stevens, prays that this First Supplemental and Amended Complaint for Damages be filed and that Defendant, Ollie's Bargain Outlet, Inc. be duly cited and served with a copy of same, to appear and answer same and after all legal delays

and due proceedings are had that there be judgment herein in favor of Petitioner, Sammie Stevens, and against Defendant, Ollie's Bargain Outlet, Inc. in an amount reasonably calculated to compensate Petitioner for his damages, together with legal interest thereon, from date of judicial demand until paid and for all costs of the proceedings and all general and equitable relief this Honorable Court deem necessary.

Respectfully submitted,

DENNIS SPURLING PLLC
ATTORNEY AT LAW AND FRIENDS

/s/Dennis D. Spurling

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Please Serve:

Ollie's Bargain Outlet, Inc.
Through Its Agent for Service of Process:
Corporation Services Company
d/b/a CSC-Lawyers Incorporating Services Company
211 East 7th Street, Suite 620
Austin, Texas 78701 – 3218 USA